

REMARKS

Claims 145, 147, 149-153 and 161-164 are pending in the application. Claims 161 and 162 have been amended herein. Support for the amended claims can be found throughout the specification and in the claims as originally filed. No new matter has been introduced.

Amendment of claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. Applicants reserve the option to prosecute the originally filed claims or similar ones in the instant or subsequently filed patent applications.

Rejection of Claim 161 Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claim 161 under U.S.C. § 112, second paragraph, as allegedly being “indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.” Specifically, the Examiner states that “[t]he use of “III2R” and “H2F” as the sole means of identifying the claimed referenced antibodies or framework regions thereof renders the claim indefinite.”

The Examiner has invited Applicants to amend claim 161 to provide the proper sequences. As Applicants have amended Claim 161 in accordance with the Examiner’s request, Applicants submit that the Examiner’s rejection is moot and respectfully request withdrawal of the rejection.

Rejection of Claim 162-163 Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claim 161 under U.S.C. § 112, second paragraph, as allegedly being “indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.” Specifically, the Examiner states that “the recitation of “and wherein treatment of the autoimmune disease occurs”” lacks proper antecedent basis.

The Examiner has invited Applicants to amend the claims for proper antecedent basis. As amended claims 161 and 162 no longer recite “and wherein treatment of the autoimmune disease occurs,” Applicants submit that the Examiner’s rejection is moot and respectfully request withdrawal of the rejection.

Rejection of Claim 161 Under 35 U.S.C. § 112, First Paragraph

The Examiner has rejected claim 161 under U.S.C. § 112, second paragraph, as allegedly being “containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.” Specifically, the Examiner states that “the III2R and H2F antibodies/immunoglobulins are required to practice the claimed invention,” and “[a]s required elements, they must be known and readily available to the public.”

Applicants respectfully traverse the rejection. Applicants submit that the III2R and H2F antibodies are *not* required to practice the invention because claim 161 merely requires knowledge of the *sequence of the framework regions* of the III2R and H2F antibodies, not possession of the antibodies themselves in their entirety. However, in an effort to expedite prosecution and in no way conceding to the validity of the Examiner’s rejection, Applicants have amended claim 161 to recite “the heavy chain framework region of the III2R antibody (SEQ ID NOS: 45, 49) or the light chain framework region of the H2F antibody (SEQ ID NOS: 46, 50).” Applicants therefore submit that the Examiner’s rejection is moot and respectfully request withdrawal of the rejection.

Obviousness-Type Double Patenting Rejections

Claims 145, 147, 149-154 and 161-63 are rejected under the judicially created doctrine of obviousness-type double patenting, as allegedly being unpatentable over claims 1-61

of U.S. Patent No. 6,827,934, claims 1-18 of U.S. Patent No. 6,984,383 and claims 1-61 of U.S. Patent No. 7,531,175.

Applicants respectfully request that the Examiner hold in abeyance all obviousness-type double patenting rejections until allowable subject matter is indicated.

CONCLUSION

Early and favorable reconsideration of the application is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at (617) 832-1000. If any fees are due, the Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to **Deposit Account No. 06-1448, WYS-004.01**.

Respectfully submitted,
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Dated: December 30, 2009

Customer Number 58571

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